



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2001 Assembly Bill 170

**Assembly Substitute
Amendment 1**

Memo published: November 6, 2001

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Assembly Bill 170 creates the prison mortality and morbidity review board in the Department of Corrections (DOC). Under the bill, the board consists of 11 members. Eight of the members are appointed by the Governor and three of the members are appointed by the Secretary of DOC. The bill requires that the board have co-chairpersons, one of whom is a member appointed from a list submitted by the Medical College of Wisconsin and the other is a member appointed from a list submitted by the University of Wisconsin-Madison Medical School. The board is required to meet at least four times each year.

The bill requires the board to investigate the death of every individual who dies while he or she is an inmate in a state correctional institution. Under the bill, within 72 hours after the death of an inmate in state correctional institution, the Secretary of DOC must notify the Speaker of the Assembly and the President of the Senate, or their designees, and every member of the board, of the death.

The board must prepare a report of the board's investigation of an inmate's death and submit that report to: (1) the appropriate relative of the deceased; (2) the Secretary of DOC; (3) if appropriate, the district attorney (DA); and (4) the Speaker of the Assembly and the President of the Senate, or their designees.

In addition, the board may make recommendations to DOC regarding medical and other prison procedures based on the board's investigation of an inmate's death. The board may also make recommendations to DOC regarding possible disciplinary action against staff who did not follow departmental policies or procedures related to the circumstances surrounding the death of an inmate. The board must also prepare and forward a complaint to the appropriate credentialing board if, during the board's investigation of an inmate's death, the board determines that a medical provider failed to provide proper and necessary medical care to a prison inmate.

The bill also provides the board specific authority in the general investigation of certain deaths as required under current law. First, upon the request of the board, a court must issue a subpoena requiring

the production of documents necessary for the determination of an inmate's cause of death. Second, the board may order the conducting of an autopsy upon the body of an inmate in cases where an inquest might be conducted, notwithstanding the fact that no such inquest is ordered or conducted. Third, if the board has knowledge of the death of an inmate that may be subject to an inquest, the board must notify the DA. The board may request the DA to order an inquest. If the DA refuses to order the inquest, the board may petition the circuit court to order an inquest. Finally, a judge or court commissioner may issue subpoenas for witnesses at the request of the board.

Assembly Substitute Amendment 1 modifies the membership of the board to require 12 members, eight members of whom are appointed by the Governor and four of whom are appointed by the Secretary of DOC. Also, the substitute amendment does not include the provision requiring the appointment of co-chairpersons.

Under the substitute amendment, DOC must notify each member of the appropriate standing committee of the Assembly and Senate of an inmate death in addition to the Speaker of the Assembly, the President of the Senate and each board member.

The substitute amendment does not contain the provision permitting the board to make recommendations to DOC regarding possible disciplinary action against staff who did not follow departmental policies or procedures related to the circumstances surrounding the death of an inmate. In addition, the substitute amendment does not include the provision requiring the board to prepare and forward a complaint to the appropriate credentialing board if, during the board's investigation of an inmate's death, the board determines that a medical provider failed to provide proper and necessary medical care to a prison inmate.

The substitute amendment also excludes the provision requiring the board to notify the DA if the board has knowledge of the death of an inmate that may be subject to an inquest. In addition, under the substitute amendment, the board is not given the authority to request the DA to order an inquest or to petition the circuit court to order an inquest.

The Assembly Committee on Corrections and the Courts recommended adoption of Assembly Substitute Amendment 1 on a vote of Ayes, 8, Noes, 1, and recommended passage of Assembly Bill 170 on a vote of Ayes, 8, Noes, 1, on November 1, 2001.

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